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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In re:)	Docket No. TSCA
)	
PETROLEUM RECYCLING CORPORATION)	COMPLAINT
)	AND
Respondent.)	NOTICE OF OPPORTUNITY
)	FOR HEARING

I

COMPLAINT

This is a civil administrative action instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2615(a). The Complainant is the United States Environmental Protection Agency (EPA), Region 9. The Respondent is Petroleum Recycling Corporation, which is, and was at all times relevant to this Complaint, a California corporation, with a place of business located at 2651 Walnut Avenue, Signal Hill, California.

The Administrator of the EPA is authorized by TSCA Section 16(a)(1), 15 U.S.C. Section 2615(a)(1), to assess a civil penalty

1 not to exceed \$25,000 per day for each violation of TSCA Section
2 15 (15 U.S.C. 2614). Authority to file a complaint to assess a
3 civil penalty has been delegated to the Regional Administrator of
4 the EPA, Region 9, by EPA Order 1200 TN 103, and by the Regional
5 Administrator to the Director, Air and Toxics Division, by EPA
6 Regional Order 1290.2A.

7 This Complaint and Notice of Opportunity for Hearing
8 (Complaint) serves as notice that the Complainant has reason to
9 believe that the Respondent has violated Section 15 of TSCA, 15
10 U.S.C. 2614, as follows:

11 COUNT I

- 12 1. Petroleum Recycling Corporation, a "person" within the
13 meaning of 40 C.F.R. 761.3 (hereinafter "Respondent")
14 operates a facility with plants at Signal Hill, California,
15 Fontana California, and San Diego, California and corporate
16 business offices located at 2651 Walnut Avenue, Signal Hill,
17 California (hereinafter "Facility").
- 18 2. On April 2, 1990, a representative of the U.S EPA conducted
19 an inspection of the Facility to determine compliance with
20 40 CFR Part 761 et seq., governing PCBs.
- 21 3. At the time of the inspection, the Inspector observed that
22 the Respondent engaged in the business of processing and
23 distributing in commerce used oil fuels to burners or other
24 marketers, and therefore is subject to the requirements of
25 40 C.F.R. Part 761.3 which regulate the marketing of used
26 oil.
- 27 4. Used oil to be burned for energy recovery is presumed to

1 contain quantifiable levels (2 ppm) of PCB unless the
2 marketer obtains analyses (testing) or other information
3 that the used oil fuel does not contain quantifiable levels
4 of PCBs. The person who first claims that a used oil fuel
5 does not contain quantifiable level (2 ppm) PCB must obtain
6 analyses or other information to support that claim.
7 Marketers who first claim that the used oil fuel contains no
8 detectable PCBs must include among the records required by
9 40 C.F.R. 266.43(b)(6)(i) copies of the analysis or other
10 information documententing his claim, and he must include
11 among the records required by 40 C.F.R. 266.43(b)(6)(ii), a
12 copy of each certification notice received or prepared
13 relating to transactions involving PCB-containing used oil.
14 40 C.F.R. 761.20(e).

15 5. At the time of the inspection, the Inspector observed that
16 the Respondent claimed that each load of used oil comprising
17 the waste oil contained in tank number 402 at the Signal
18 Hill facility and shipped for diposal to Systech
19 Environmental on or about December 11, 1989 did not contain
20 quantifiable levels of PCBs without having accurate analysis
21 (testing) or other information to support that claim, and
22 that the Respondent failed to maintain copies of the
23 analysis of each of the loads or other information
24 documenting this claim, in violation of 40 C.F.R. 761.20(e)
25 and 15 U.S.C. 2614(1)(C).

26 COUNT II

27 1. Count II incorporates by reference the allegations contained

1 in Paragraphs Numbered 1 and 2 of Count I as if fully
2 recited herein.

3 2. At the time of the inspection, the Inspector observed that
4 the Respondent engaged in the business of processing and
5 distributing in commerce used oil fuels to burners or other
6 marketers.

7 3. Unless otherwise specifically provided, PCBs at
8 concentrations of 50 ppm or greater must be disposed of in
9 an EPA approved incinerator, chemical waste landfill, or
10 high efficiency boiler. 40 C.F.R. 761.60(a).

11 4. "Disposal" means intentionally or accidentally to discard,
12 throw away, or otherwise complete or terminate the useful
13 life of PCBs and PCB Items. Disposal includes spills,
14 leaks, and other uncontrolled discharges of PCBs as well as
15 actions related to containing, transporting, destroying,
16 degrading, decontaminating, or confining PCBs and PCB Items.

17 5. At the time of inspection, the Inspector determined that, on
18 or about December 11, 1989, the Petroleum Recycling
19 Corporation disposed of waste oil containing approximately
20 266 ppm PCBs at a facility that is not an EPA approved
21 incinerator, chemical waste landfill, or high efficiency
22 boiler that meets the criteria stated at 40 C.F.R. Part
23 761.60. 761.65 and 761.75, in violation of 40 C.F.R.
24 761.60(a) and 15 U.S.C. 2614(1)(C).

25 COUNT III

26 1. Count III incorporates by reference the allegations
27 contained in Paragraphs Numbered 1 and 2 of Count I as if

1 fully recited herein.

2 2. At the time of the inspection, the Inspector observed that
3 the Respondent stored PCBs for disposal at the Respondent's
4 Fontana, California facility and therefore is subject to the
5 requirements of 40 C.F.R. 761.65 which regulates storage for
6 disposal for PCBs and PCB Items.

7 3. PCB storage for disposal regulations at 40 C.F.R. Part
8 761.65 apply to the storage for disposal of PCBs at
9 concentrations of 50 ppm or greater and PCB Items with PCB
10 concentrations of 50 ppm or greater.

11 4. Storage containers for liquid PCBs can be larger than the
12 containers specified at 40 C.F.R. Part 761.65(c)(6) provided
13 that the containers the containers are designed,
14 constructed, and operated in compliance with Occupational
15 Safety and Health Standards, 29 C.F.R. 1910.106 and that the
16 owners or operators of any facility using containers
17 described in paragraph (c)(7)(i) of this section shall
18 prepare and implement a Spill Prevention Control and
19 Countermeasure (SPCC) Plan as described in Part 112 of this
20 title. Storage containers provided in paragraph (c)(7) of
21 this section shall have a record that includes for each
22 batch of PCBs the quantity of the batch and date the batch
23 was added to the container. The record shall also include
24 the date, the quantity, and disposition of any batch of PCBs
25 removed from the container. 40 C.F.R. 761.65(c)(7) and (8).

26 5. At the time of the inspection, the Inspector observed that
27 during the time PCBs were stored at the Respondent's

1 Fontana, California facility, the Respondent had failed to
2 prepare and implement a Spill Precention Control and
3 Countermeasure Plan as described in 40 C.F.R. Part 112 and
4 had failed to maintain for the storage tank containing PCBs
5 a record that included for each batch of PCBs the quantity
6 of the batch and the date the batch was added to the
7 container and the date, the quantity, and disposition of any
8 batch of PCBs removed from the container, in violation of 40
9 C.F.R. 761.65(c) and 15 U.S.C. 2614(1)(C).

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II

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PROPOSED CIVIL PENALTY

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COUNT I
IMPROPER MARKETING (Failure to support claim
that used oil contained less than 2 ppm
PCBs)\$20,000.00
40 C.F.R. 761.20(e)
15 u.s.c. 2614 (1)(C)
COUNT II
DISPOSAL VIOLATION (Improper disposal of
PCBs)\$25,000.00
40 C.F.R. 761.60(a) and (d)
15 U.S.C. 2614 (1)(C)
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COUNT III

STORAGE FOR DISPOSAL VIOLATION (Failure to prepare
and maintain SPCC Plan and to maintain records of PCBs
added to and removed from storage tank).....\$ 20,000.00
40 C.F.R. 761.65
15 U.S.C. 2614 (1)(C)

Total Proposed Penalty.....\$ 65,000.00

III

NOTICE OF OPPORTUNITY FOR HEARING

You have the right to request a hearing on any material fact
contained in the Complaint or the amount of the proposed penalty.
If you wish to request a hearing and avoid being found in
default, you must file a written Answer to the Complaint with the
Regional Hearing Clerk, EPA Region 9, 75 Hawthorne Street, San
Francisco, California 94105, within twenty (20) days of your
receipt of the Complaint. The Answer must clearly and directly
admit, deny, or explain each of the factual allegations contained
in the Complaint with regard to which you have any knowledge. A
failure to admit, deny, or explain any material fact allegation
will constitute an admission of the allegation. The Answer must
also state (1) the circumstances or arguments which constitute
the grounds of defense, (2) the facts which you intend to place
at issue, and (3) whether a hearing is requested.

If you fail to file a written Answer within twenty (20) days
of your receipt of the Complaint, you may be found in default.
Your default will constitute an admission of all facts alleged in
the Complaint and a waiver of your right to a hearing. The

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1 penalty proposed in the Complaint will be imposed without further
2 proceedings.

3 The public hearing that you request will be held in a
4 location determined in accordance with 40 C.F.R. Part 22. The
5 hearing will be conducted in accordance with the provisions of
6 the Administrative Procedure Act, 5 U.S.C. 552 et seq., and the
7 Rules of Practice, 40 CFR Part 22 (45 F.R. 26360), a copy of
8 which accompanies the Complaint.

9 IV

10 SETTLEMENT CONFERENCE

11 Whether or not you request a hearing, you may confer
12 informally with EPA to discuss the alleged facts, violations or
13 amount of the proposed penalty. An informal conference does not,
14 however, affect your obligation to file a written Answer within
15 twenty (20) days of your receipt of the Complaint.

16 Any settlement reached as a result of an informal conference
17 will be embodied in a written Consent Agreement and Order. The
18 issuance of the Consent Agreement and order will constitute a
19 waiver of your right to a hearing on any matter to which you have
20 stipulated.

21 If a settlement cannot be reached through an informal
22 conference, the filing of a written Answer within twenty (20)
23 days of your receipt of the Complaint will preserve your right to
24 a hearing.

25 EPA encourages all parties against whom a penalty is
26 proposed to explore the possibility of settlement. To request an
27 informal conference, you should contact David M. Jones, Assistant

1 Regional Counsel, EPA, Region 9, 75 Hawthorne Street, San
2 Francisco, California 94103, telephone number (415) 744-1314.

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Date

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David P. Howekamp
Director
Air and Toxics Division

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